

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ALEXANDRO PUGA AND
NORMA PUGA
PLAINTIFFS

VS.

ABOUT TYME TRANSPORT, INC.
AND XTRA LEASE, LLC
DEFENDANTS

CIVIL ACTION NO.: 15-cv-73

**DEFENDANT ABOUT TYME TRANSPORT, INC.'S
NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Comes now ABOUT TYME TRANSPORT, INC. ("ABOUT TYME") Defendant in a cause styled *Alexandro Puga and Norma Puga v. About Tyme Transport, Inc. and Xtra Lease, LLC*, originally pending as Cause No. 2015CDCV-60086-1 in the County Court at Law No. 1, Nueces County, Texas, and pursuant to the terms and provisions of 28 U.S.C. §§ 1441, hereby respectfully files this Notice of Removal¹ of said cause to the United States District Court for the Southern District of Texas, Corpus Christi, and as grounds therefore, would respectfully show the Court as follows:

I.
NATURE OF THE CASE

1. This case arises out of an automobile accident that occurred on or about June 9, 2015. Plaintiffs have alleged that Defendant ABOUT

¹ Defendants attach as Exhibit A to this Notice of Removal their Index of Matters Being Filed that includes the Judicial Calendar (docket sheet) of the underlying state court action and each document filed in the state court action. A copy of the Certificate of Interested Parties is attached as Exhibit B.

TYME hired Ronald Brown, deceased, to haul a load of freight, while in the course and scope of his employment with ABOUT TYME when the accident occurred.

2. Plaintiffs commenced this action in the County Court at Law No. 1, Nueces County, Texas, on January 16, 2015, by the filing of Plaintiff's Original Petition, which has not yet been served on Defendant ABOUT TYME² or Defendant XTRA LEASE, LLC. To date, citations have not been served on ABOUT TYME or Defendant XTRA LEASE, LLC; however, Defendant ABOUT TYME has filed a Motion to Transfer Venue with Answer Subject Thereto. Defendant ABOUT TYME is the only Defendant properly before the Court and timely removes this suit. XTRA LEASE, LLC has not been properly joined and served with the lawsuit and is not properly before the Court; therefore consent to removal from XTRA LEASE LLC is not necessary to remove this case to Federal Court.

II.
JURISDICTION

3. Pursuant to 28 U.S.C. § 1441, Defendant removes this action to the District Court of the United States for the district and division embracing the place where this action is pending. In support of this Notice, Defendant shows that this action is between citizens of different states. As alleged in their Original Petition, Plaintiffs are citizens of Texas. Plaintiff also confirms that Defendants are not citizens of Texas. Defendant XTRA LEASE, LLC. is a Missouri corporation with its principal place of business in St. Louis, Missouri.

² Plaintiff's Original Petition, attached as Exhibit A-1.

Defendant ABOUT TYME is an Arkansas corporation with its principal place of business in Little Rock, Arkansas. Plaintiffs' Original Petition establishes that the amount in controversy exceeds \$100,000. Accordingly, this Court has diversity jurisdiction under 28 U.S.C. § 1332.

III.
DEFENDANT'S NOTICE OF REMOVAL IS TIMELY

4. Defendants further show that this removal is timely sought and this notice was filed within thirty (30) days of Plaintiffs filing their Original Petition.

5. Additionally, it has been less than one year since this action was originally commenced. *See* 28 U.S.C. § 1446(b).

IV.
CONCLUSION AND PRAYER

6. All conditions and procedures for removal have been satisfied. Defendants attach copies of all process, pleadings and orders from the Nueces County Court's file with its Index of Matters Being Filed (Exhibit A). Defendants will also promptly give written notice of the filing of this notice of removal to Plaintiffs, as well as promptly file a copy of the Notice of Removal with the Clerk of the District Court of Nueces County, Texas.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that this action now pending against it be removed from the County Court of Law No. 1 of Nueces County, Texas, to this Honorable Court for trial and determination of all issues.

Respectfully submitted,



David L. Ortega

State Bar No. 00791377

Telephone: 210-731-6353

Facsimile: 210-785-2953

Email: dortega@namanhowell.com

Erik L. Krudop

State Bar No. 24027429

Telephone: 210-731-6434

Facsimile: 210-785-2910

Email: ekrudop@namanhowell.com

Naman, Howell, Smith & Lee, PLLC

10001 Reunion Place, Suite #600

San Antonio, Texas 78216

**ATTORNEY FOR DEFENDANT,
ABOUT TYME TRANSPORT, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served in accordance with the Texas Rules of Civil Procedure on this the 3rd day of February, 2015, to the following counsel of record:

Thomas J. Henry
Richard W. Hunnicutt, III
Josephine Lue
Thomas J. Henry, Injury Attorneys
521 Starr Street
Corpus Christi, Texas 78401



David L. Ortega